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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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05/19/2005

Stina Roth

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21839 7590 05/21/2009
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EXAMINER

POHNERT, STEVEN C

ART UNIT

PAPER NUMBER

1634

NOTIFICATION DATE

DELIVERY MODE

05/21/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Attachment to Advisory

Continuation of box 3: The amendments filed on 4/30/2009 further limit the claims to, “wherein said mixture of DNA primers comprises a DNA primer consisting of the sequence identified with SEQ ID NO: 76 and a DNA primer consisting of the sequence identified with SEQ ID NO:77.” These new limitations further limit the scope of the claims and thus require further search and consideration because the claims now are limited to sequence consisting of SEQ ID NO 76 and 77. Thus this amendment has presented new limitations that were not present at the time of final rejection and will not be entered.

Continuation of box 11:

The request for reconsideration has been considered but does not place the application in condition for allowance for the reasons of record in view of the non-entry of the after final amendment.

The response asserts that the gene expression arrays of Haselbeck do not render the instant claims obvious as the instant claims are not drawn to gene expression profiles. These arguments have been thoroughly reviewed but are not considered persuasive as Huang specifically teaches method of identifying species of bacteria in sample and Haselbeck is being used to demonstrate the oligonucleotide probes were known to be attached to a solid support. Further the gene expression profiling of Haselbeck is not excluded by the instant claims as they have comprising language.

The response further traverses the rejection of Huang, Haselbeck, Hogan and Hopewell. The response asserts the prior art of record does not teach or suggest a probe of SEQ ID NO 24. This argument has been thoroughly reviewed but is not considered persuasive as Hopewell in figure 3 teaches a sequence comprising SEQ ID NO 24 and Hogan teaches methods of designing probes. Thus the combination of Huang, Haselbeck, Hogan and Hopewell do render the instant claims obvious.

Applicants remaining arguments refer to the amended claims and rely solely on the amendments. The applicant provided no further arguments not already considered. Since the arguments were not entered, the arguments are moot. Therefore the arguments drawn to the after final amendments have not been considered.

Conclusions

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven C. Pohnert whose telephone number is 571-272-3803. The examiner can normally be reached on Monday-Friday 6:30-4:00, every second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James (Doug) Schultz can be reached on 571-272-0763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Steven Pohnert

/Juliet C Switzer/
Primary Examiner, Art Unit 1634